DOCUMENTS CROSS-REFERENCED
ATTACHED:

ER 85-1510

ER 85-1348

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EXECUTIVE SECRETARIAT
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Date

Remarks

STAT

Executive Secretary

24 Apr 85

Date

3637 (10-81)

WASHINGTON

Executive Registry
85- 1510/1

CABINET AFFAIRS STAFFING MEMORANDUM

Date: 4/22/85 **Number:** ---------- **Due By:**

Subject: Cabinet Council on Economic Affairs Minutes: March 29, 1985 and April 9, 1985

	Action	FYI
ALL CABINET MEMBERS	☐	☑
Vice President	☐	☐
State	☐	☐
Treasury	☐	☐
Defense	☐	☐
Justice	☐	☐
Interior	☐	☐
Agriculture	☐	☐
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HHS	☐	☐
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Transportation	☐	☐
Energy	☐	☐
Education	☐	☐
OMB	☐	☐
CIA	☐	☐
UN	☐	☐
USTR	☐	☐
Chief of Staff	☐	☐
GSA	☐	☐
EPA	☐	☐
NASA	☐	☐
OPM	☐	☐
VA	☐	☐
SBA	☐	☐

	Action	FYI
CEA	☐	☑
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Mc Farlane	☐	☑
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Executive Secretary for:		
CCCT	☐	☑
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CCLP	☐	☑
CCMA	☐	☑
CCNRE	☐	☑

REMARKS:

Attached for your information are the minutes of the following Cabinet Council on Economic Affairs meetings:

March 29, 1985
April 9, 1985

RETURN TO:

☐ Alfred H. Kingon
Cabinet Secretary
456-2823
(Ground Floor, West Wing)

☐ Don Clarey
☑ Tom Gibson
☐ Larry Herbolsheimer

Associate Director
Office of Cabinet Affairs
456–2800 (Room 129, OEOB)

DCI EXEC REG

L-300B

MINUTES
CABINET COUNCIL ON ECONOMIC AFFAIRS

March 29, 1985
9:00 a.m.
Roosevelt Room

Attendees: Messrs. Baker, Stockman, Darman, Ford, Naylor, Smith, Niskanen, Porter, Kingon, Baroody, Cogan, Egger, Fitzwater, Gibson, Knapp, Korb, Ortner, Platt, Spears, and Tharp, Ms. McLaughlin and Ms. McCaffrey.

1. Report of the Working Group on Employment Policy

David Stockman reported on activity in Congress to extend and modify the Federal Supplemental Compensation (FSC) program, which expires March 31, and the Extended Benefits (EB) program. He explained that the Administration had approved in September 1983 an 18 month extension of the FSC program until March 1985, costing $3.6 billion.

The House Ways and Means Subcommittee on Public Assistance and Unemployment Compensation yesterday marked up a three-month extension of the FSC program, providing 4 to 8 weeks of additional benefits, with an eventual phase out of eligibility. This would affect 300,000 to 350,000 workers whose benefits otherwise would expire this weekend. The subcommittee also marked up a bill which alternatively would provide up to 30 additional weeks of benefits. Full committee consideration is scheduled for Tuesday, April 2, with floor action possible next week as well.

In the Senate, legislation extending FSC benefits to current recipients for six months has been introduced. Senator Packwood has tentatively scheduled an April 2 markup of an alternate bill allowing current recipients to continue receiving benefits until they exhaust their number of eligible weeks. Mr. Stockman noted that this simple "run out" legislation would cost an estimated $99 million. He said that pressure for enacting more costly proposals is likely to continue.

The Council agreed that the Administration should continue to oppose extending the FSC program or modifying the extended benefit program.

2. Report of the Working Group on Pension Policy

William Niskanen presented a paper, prepared by the Working Group on Pension Policy, on "Minimum Funding Waivers." Under the provisions of ERISA, the IRS can grant pension plan sponsors experiencing "economic hardship" up to five waivers of their minimum funding responsibilities during any fifteen year period.

Since 1974, the statutory authority for granting waivers has been delegated by the Secretary of the Treasury to the Internal Revenue Service.

Mr. Niskanen explained that the intent of minimum funding waivers is to provide financial flexibility to employers sponsoring pension.plans. Waivers effectively are loans from pension beneficiaries to plan sponsors.

Mr. Niskanen emphasized that there is no disagreement about the IRS's statutory authority to grant funding waivers to employers. But, he said, a majority of the Working Group believes that attention also should be given to the threat that waivers pose to pension plan participants and the Pension Benefit Guaranty Corporation (PBGC) insurance fund which is currently in deficit. He also noted that other provisions of ERISA require that pension plans be operated for the "exclusive benefit of beneficiaries."

The Working Group requested the Council's consideration of two issues: (1) whether to approve a provision of the Administration's single employer pension bill which would grant the PBGC the option of imposing a lien on employers who are granted funding waivers and (2) whether to request that the Working Group explore administrative and legislative options for administratively or legislatively reforming the minimum funding waiver process.

Mr. Niskanen explained that the Administration has included the lien provision in its bill to increase PBGC premiums the last two years. The bill has failed to pass the Congress for reasons unrelated to the lien provision. He said the provision is again part of the Administration's FY 1986 bill pending the Cabinet Council's approval. Mr. Tharp, executive director of the PBGC, noted that the lien would not be automatic, but would be applied at the discretion of the PGBC, allowing flexibility for alternate ways that an employer could show its long-term financial viability.

Mr. Niskanen said that the lien provision would not betray the spririt of granting waivers which recognizes that firms can experience temporary financial problems in funding pension plans, but that it would provide some protection to the PBGC insurance fund. He said the issue of reforming fundamentally the process of granting waivers is, on the other hand, an issue than should be considered only after thorough review by the Working Group.

The Council dicussion focused on: the ongoing practice of the IRS to consult the PBGC on waiver requests involving more than $50,000; the number of firms receiving waivers that have subsequently terminated their pension plans, shifting liabilities to the PGBC; the potential savings to taxpayers resulting from granting funding waivers to struggling firms; the number and size of pending waiver requests; the disincentives for firms receiving waivers to seek alternate private sector loans and the potential harm to a firm's credit rating that could result from a PBGC lien on its assets; alternate options for reducing the risks to the PBGC insurance fund, including greater attention by the IRS to a firm's long term financial viability; and the practices of other nations which for the most part do not permit pension funding waivers.

The Cabinet Council agreed that the Working Group should undertake a long-term study of the minimum funding waiver process, but postponed approving the lien provision to provide time for the IRS to submit its comments. A final decision memorandum will be circulated by the Executive Secretary.

The Council also expressed its appreciation for the contributions of Mr. Niskanen and Mr. Tharp who will be leaving government service soon.

MINUTES
CABINET COUNCIL ON ECONOMIC AFFAIRS

April 9, 1985
9:00 a.m.
Roosevelt Room

Attendees: Messrs. Baker, Ford, Darman, Porter, Wright, Jones, Lighthizer, Sprinkel, Johnson, Eastburn, Breeden, Herbolsheimer, Knapp, Shepherd, Thompson, and Li, and Ms. Eickhoff.

1. Deposit Insurance Study

Mr. Eastburn presented a brief review of the recommendations of the deposit insurance study prepared by the Working Group on Financial Institutions Reform. The Cabinet Council last reviewed the study on January 10 and January 15. At that time, the Chairman Pro Tempore indicated that Council members would have an opportunity to digest the study and recommendations and that it would be considered once more before final approval.

The study makes five recommendations for reforming the Federal deposit insurance system. They include increasing capital requirements, phasing in risk-related insurance premiums, increasing the size of deposit insurance funds, instituting uniform accounting standards, and improving the examination, supervision, and enforcement functions of the regulatory agencies.

The Cabinet Council discussed the need to implement carefully the phasing in of risk-related insurance premiums in order to avoid affecting confidence in individual institutions. The Council noted the study's recommendation of using objective criteria and a formula from public data to determine an institution's premium.

The Cabinet Council approved recommending to the President that he adopt the five recommendations. The Chairman Pro Tempore asked the Executive Secretary to prepare a memorandum to the President with the Cabinet Council's recommendations.

2. Disinflation and its Economic Implications

Mr. Sprinkel and Mr. Johnson presented papers contrasting differing views on disinflation and its monetary policy implications. Mr. Sprinkel argued that although there has been deflation in commodity prices, the general price level has

experienced disinflation, an increase in the price level but at a slower rate than before. Commodity prices tend to be more volatile than the general price level, and given the disinflation in the general price level, one could expect declines in commodity prices. Moreover, much of the commodity price decline can be attributed to the appreciation of the U.S. dollar.

He argued that the Federal Reserve should consider money growth, rather than changes in commodity prices, in determining monetary policy. Looking at money growth, there is currently no evidence that money growth on a year-over-year basis is "too tight." He concluded that we should not risk accelerating money growth because of weak commodity prices.

While not necessarily agreeing with their views, Mr. Johnson presented the arguments of some observers that commodity deflation is a more significant problem than the Federal Reserve has acknowledged. Certain sectors have been hurt particularly hard by the disinflationary process, including the agriculture, energy, and many goods-producing industries.

Some observers argue that monetary policy has been "too tight." This tightness has been reflected in an appreciation in the value of the dollar and deflation in the price of commodities. These observers argue that the Federal Reserve should consider a number of factors such as commodity prices and exchange rates as well as money growth in determining monetary policy.

The Council discussion revolved around what criteria the Federal Reserve should use in determining monetary policy. It examined the implications of considering money growth exclusively or a combination of money growth and other factors, such as commodity prices, exchange rates, and interest rates.

The Council discussed the degree to which one could tolerate high money growth over the short run if it does not imply high money growth over the long run. Council members noted that high money growth over the short run runs the risks of first, having the market adjust upward its inflationary expectations, and second, the Federal Reserve letting high money growth run for a longer period than desired and then tightening precipitously.

The Council also discussed the degree of control that the Federal Reserve has over money growth.

EXECUTIVE SECRETARIAT

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Date

Remarks

STAT

Executive Secretary

8 April 1985

Date

3637 (10-81)

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Executive Registry
85- 1510

WASHINGTON

CABINET AFFAIRS STAFFING MEMORANDUM

Date: 4/5/85 **Number:** 169159CA **Due By:**

Subject: Cabinet Council on Economic Affairs - Tuesday, April 9, 1985 9:00 A.M. - Roosevelt Room

	Action	FYI
ALL CABINET MEMBERS	☐	☐
Vice President	☑	☐
State	☑	☐
Treasury	☑	☐
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Justice	☐	☑
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Agriculture	☑	☐
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HUD	☑	☐
Transportation	☑	☐
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Education	☐	☑
OMB	☑	☐
CIA	☐	☑
UN	☐	☑
USTR	☑	☐
Chief of Staff	☐	☐
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Deaver	☑	☐
Mc Farlane	☐	☑
Svahn	☑	☐
Chew *(For WH Staffing)*	☑	☐
Executive Secretary for:		
CCCT	☐	☐
CCEA	☑	☐
CCFA	☐	☐
CCHR	☐	☐
CCLP	☐	☐
CCMA	☐	☐
CCNRE	☐	☐

REMARKS:

There will be a Cabinet Council on Economic Affairs on Tuesday, April 9, at 9:00 A.M. in the Roosevelt Room.

The agenda and background papers are attached.

RETURN TO:

☐ Alfred H. Kingon
Cabinet Secretary
456-2823
(Ground Floor, West Wing)

☐ Don Clarey
☐ Tom Gibson
☑ Larry Herbolsheimer

Associate Director
Office of Cabinet Affairs
456-2800 (Room 129, OEOB)

DCI EXEC REG

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EXECUTIVE SECRETARIAT

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Remarks

STAT

Executive Secretary

28 March 1985

Date

3637 (10-81)

THE WHITE HOUSE
WASHINGTON

Executive Registry
85-1348

CABINET AFFAIRS STAFFING MEMORANDUM

Date: 3/27/85 **Number:** 169155CA **Due By:**

Subject: Cabinet Council on Economic Affairs - Friday, March 29, 1985
9:00 A.M. - Roosevelt Room TOPICS: Pension Policy
Employment Policy

	Action	FYI
ALL CABINET MEMBERS	☐	☐
Vice President	☑	☐
State	☑	☐
Treasury	☑	☐
Defense	☑	☐
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Interior	☐	☑
Agriculture	☑	☐
Commerce	☑	☐
Labor	☑	☐
HHS	☐	☑
HUD	☑	☐
Transportation	☑	☐
Energy	☐	☑
Education	☐	☑
OMB	☑	☐
CIA	☐	☑
UN	☐	☑
USTR	☑	☐
Chief of Staff	☐	☐
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SBA	☐	☐

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CEQ	☐	☐
OSTP	☐	☐
Deaver	☐	☑
Mc Farlane	☐	☑
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Chew *(For WH Staffing)*	☑	☐
Executive Secretary for:		
CCCT	☐	☐
CCEA	☑	☐
CCFA	☐	☐
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REMARKS:

There will be a Cabinet Council on Economic Affairs meeting on Friday, March 29, at 9:00 A.M. in the Roosevelt Room (the meeting is not expected to last more than 45 minutes).

The agenda and an additional background paper for the first agenda item are attached.

RETURN TO:

☐ Alfred H. Kingon
Cabinet Secretary
456-2823
(Ground Floor, West Wing)

☐ Don Clarey
☑ Tom Gibson
☐ Larry Herbolsheimer

Associate Director
Office of Cabinet Affairs
456-2800 (Room 129, OEOB)

DCI EXEC REG

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THE WHITE HOUSE

WASHINGTON

March 27, 1985

MEMORANDUM FOR THE CABINET COUNCIL ON ECONOMIC AFFAIRS

FROM: ROGER B. PORTER RBP

SUBJECT: Agenda and Papers for the March 29 Meeting

The agenda and paper for the March 29 meeting of the Cabinet Council on Economic Affairs are attached. The meeting is scheduled for 9:00 a.m. in the Roosevelt Room.

The Council is scheduled to consider two agenda items: the report of the Working Group on Pension Policy and a report from the Working Group on Employment Policy. A paper from the Working Group on Pension Policy was distributed on February 27. An additional paper on "Minimum Funding Waivers" from the Working Group is attached. There will not be a paper distributed in advance of the meeting for the second agenda item.

Attachments

THE WHITE HOUSE

WASHINGTON

CABINET COUNCIL ON ECONOMIC AFFAIRS

March 29, 1985

Roosevelt Room

9:00 a.m.

AGENDA

1. Report of the Working Group on Pension Policy (CM#112)

2. Report of the Working Group on Employment Policy (CM#510)

THE WHITE HOUSE

WASHINGTON

March 25, 1985

MEMORANDUM FOR THE CABINET COUNCIL ON ECONOMIC AFFAIRS

FROM: THE WORKING GROUP ON PENSION POLICY

SUBJECT: Minimum Funding Waivers

Background

The 1974 ERISA law imposed minimum funding requirements on employers who maintain a defined benefit pension plan. The law authorized the Secretary of the Treasury to waive minimum funding requirements to enable companies with substantial business hardships to avoid terminating their pension plans. The Secretary has delegated this responsibility to the Internal Revenue Service.

A plan sponsor can receive minimum funding waivers for up to five years out of any consecutive fifteen year period. The amount waived must be repaid to the plan, with interest, over no more than fifteen years. The Internal Revenue Service normally requires that the entire amount waived become due and payable upon plan termination.

The number of waiver requests received by the IRS has risen from approximately 125 per year in 1978 and 1979 to 1,003 in 1983. No information is available concerning the aggregate dollar amount of these requests. Data concerning the disposition was collected from 1980 through 1982. In the years 1980-1982, the IRS acted on 943 waiver requests, granting 875 (92.8%). Approximately 285 additional requests were closed without action, usually on the plan sponsor's initiative. Plan sponsors often withdraw requests that are about to be denied to avoid the negative implications of a formal denial.

Although the Internal Revenue Service is charged with approving or disapproving waiver requests, the Pension Benefit Guaranty Corporation (PBGC) also has an important stake in these decisions. If a plan terminates and the plan sponsor does not have enough assets to repay the waiver contribution, the PBGC is responsible for promised benefits up to the guarantee limit.

The PBGC conducted an analysis of the Corporation's deficit and found that at least $100 million of net claims (more than 20 percent of the aggregate deficit) have resulted from waivers of the minimum funding standards. The PBGC estimate includes only the losses due to the termination of plans that have received waivers. It does not include any estimate of

plan terminations that may have been avoided because of funding waivers. To date there has been no analysis of the effect of funding waivers on the long term viability of firms. The PBGC argues that, in at least some cases, the standards for granting waivers have been excessively liberal, and they have proposed changes in the procedures for granting waivers.

Current Procedures

The IRS does not grant funding waivers if there is no prospect that an employer will survive. The IRS is under pressure to grant funding waivers where survival probabilities are low when there is a possibility that a waiver denial may contribute to an employer's failure, either because the employer must contribute to the plan, or because of the signal a denial sends to the financial community. The IRS is also sensitive to the possibility that a waiver denial may cause an employer to terminate its pension plan.

Although the IRS does not try to minimize the risk to the PBGC when making funding waiver decisions, it does take action that protects the PBGC's interests:

- The IRS notifies the PBGC of large (over $50,000) waiver requests and accepts PBGC comments on these cases. The PBGC believes that these comments are disregarded too frequently.

- The IRS often imposes conditions on waivers that protect the PBGC. These include:

  - Anti-termination provisions that void waivers retro-actively if a plan terminates;

  - A requirement that benefit accruals cease;

  - A requirement that assets be transferred from over-funded to underfunded plans; and

  - Making an entire controlled group liable for the minimum funding requirements.

Issue

The Pension Policy Working Group has discussed the general question of funding waivers and, working with the IRS and the PBGC, is examining a number of alternatives to the current arrangements.

One issue, however, requires immediate action since it is part of the proposed Single Employer Pension Plan Amendments.

Should the Administration include as part of its proposed pension legislation a provision that would give a pension plan a statutory lien on the sponsor's assets when a funding waiver is granted?

This provision is similar to a provision that was included in the single employer legislation introduced in the 98th Congress and reported out by the Senate Labor Committee. While the provision would not alter the process by which funding waivers are granted, it would provide greater protection to the PBGC in those instances when a sponsor who has been given a waiver terminates the plan.

Both the Internal Revenue Service and the Department of Labor have expressed reservations about possible conflict of interest problems that arise with a statutory lien provision. To perfect a lien, plan administrators must take action that is in direct conflict with their interest in the company that is sponsoring the plan. The PBGC has proposed that to avoid conflict of interest problems, a plan administrator would be required to perfect the lien only at the direction of the PBGC. The PBGC could direct perfection of the lien only where the waived amounts or the plan's unfunded vested benefits exceed statutorily specified de minimis amounts.

The IRS has also questioned the effect of a security interest on existing and potential creditors of the employer. In general, a security interest that would protect the PBGC would make other creditors less willing to loan money to a troubled firm.

Options

Option 1: Include in the Single Employer Pension Plan Act Amendments of 1985 a provision that would give a pension plan a statutory lien on the sponsor's assets when a funding waiver is granted.

Option 2: Do not include in the Single Employer Pension Plan Act Amendments a provision that would give a pension plan a statutory lien on the sponsor's assets when a funding waiver is granted.

The Pension Policy Working Group along with the IRS and the PBGC are examining several alternatives to the current arrangements including:

1. Replacing actuaries with financial analysts in the funding waiver process so that the financial viability of a firm can better be assessed.

2. Requiring plan sponsors who receive a funding waiver to post a bond, escrow, or letter of credit in favor of the plan, when appropriate.

3. Making waiver requests subject to public comment to give plan participants a better opportunity to participate in the decision to grant a waiver.

4. Providing for expanding the waiver authority to formally include the PBGC possibly through a dual approval system involving the IRS and the PBGC.

5. Reevaluating the appropriateness of funding waivers.

Some of these alternatives could be undertaken administratively. Others would require legislative action.

The Working Group will report to the Cabinet Council on its evaluation of these alternatives as promptly as possible.